

APR 30 1979

MICHAEL RODAK, JR., CLERK

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IN THE  
Supreme Court of the United States  
OCTOBER TERM

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No. **79-123**

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EDELMIRO MARTINEZ RIVERA  
Petitioner,

versus

HECTOR COLON CRUZ, JOSE TRIAS MONGE,  
CARLOS V. DAVILA, HIRAM TORRES RIGUAL,  
ANGEL M. MARTIN, JORGE DIAZ CRUZ, CARLOS J.  
IRIZARRY YUNQUE, AND ANTONIO S. NEGRON  
GARCIA, INDIVIDUALLY  
Respondents.

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PETITION FOR A WRIT OF CERTIORARI TO THE  
SUPREME COURT OF THE COMMONWEALTH OF  
PUERTO RICO

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EDELMIRO MARTINEZ RIVERA  
Petitioner Pro-Se  
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SUPREME COURT OF THE UNITED STATES  
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No.

EDELMIRO MARTINEZ RIVERA  
Petitioner,

versus

HECTOR COLON CRUZ, JOSE TRIAS MONGE,  
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PETITION FOR A WRIT OF CERTIORARI TO THE  
SUPREME COURT OF THE COMMONWEALTH OF  
PUERTO RICO

TO THE HONORABLE, THE CHIEF JUSTICE AND  
THE ASSOCIATE JUSTICES OF THE SUPREME  
COURT OF THE UNITED STATES:

The Petitioner, EDELMIRO MARTINEZ RIVERA, appearing pro se, respectfully prays that a Writ of Certiorari issue to review the Resolution of the Supreme Court of the Commonwealth of Puerto Rico entered in this case on February 1, 1979 dismissing the appeal which the petitioner, plaintiff below, took from the judgment the Superior court of Puerto Rico, San Juan Part, entered in the case on November 30, 1977, dismissing outright *motu proprio* the complaint.



## JUDGMENTS BELOW

The unreported judgment of the Superior Court of Puerto Rico, San Juan Part, in Civil Action Number 77-8122 (905), appears at Appendix A, *infra*, page 1<sup>a</sup>.

The unreported Resolution of the Supreme Court of the Commonwealth of Puerto Rico, in case number 7-78-4 rendered on February 1, 1979, appears at Appendix B, *infra*, page 2a. The denial of reconsideration by the Supreme Court of Puerto Rico, appears at Appendix C, *infra*, page 4a.

## JURISDICTION

The decision of the Supreme Court of the Commonwealth of Puerto Rico was entered on February 1, 1979 and notified on February 5, 1979. A motion for reconsideration filed on February 15, 1979 was flatly denied without reasoning on March 1, 1979. A motion asking reinstatement of Appeal filed on March 27, 1979, was denied on April 5, 1979 as appears at Appendix E, *infra*, page 6a. This petition for certiorari is timely filed within the delays provided by 28 U.S.C. section 2101. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1258 (3) and Supreme Court Rules, Part V., Rule 19 (b) and Part XI, Rule 61.

## QUESTIONS PRESENTED

1. Whether the Chief Justice and the Associate Justices of the Supreme Court of the Commonwealth of Puerto Rico, who are the individual parties defendants and the appellees in the suit, were legally, morally, and ethically qualified to participate as members, and in the name of the Supreme Court of the Commonwealth of Puerto Rico, in the judicial consideration or decision of the appeal.

2. Whether the Superior Court of Puerto Rico, San Juan Part, deprived the petitioner, plaintiff below, of his constitutional rights to judicial due process of law and to

equal protection of the laws by dismissing outright the instant action *motu proprio* within less than twenty-four (24) hours of its filing, without giving the plaintiff any form of notice or hearing and without waiting even the lapse of the ten (10) days legal period that the defendants had to appear and plead to the complaint.

## CONSTITUTIONAL PROVISIONS, STATUTES, RULES AND CANONS OF JUDICIAL ETHICS

The constitutional provisions, statutes, rules and Canon of Judicial Ethics involved are: CONSTITUTION OF THE UNITED STATES:

Amendment XIV, Section 1:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life; liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

Article IV, Sec. 2, Clause 1:

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States".

## CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO:

Article II, Section 7: [Right to life, liberty, and enjoyment of property; no death penalty; due process; equal protection of laws; impairment of contracts; exemption of property from attachment]

"The right to life, liberty and the enjoyment of property is recognized as a fundamental right of

man. The death penalty shall not exist. No person shall be deprived of his liberty or property without the process of law. No person in Puerto Rico shall be denied the equal protection of the laws. No laws impairing the obligation of contracts shall be enacted. A minimum amount of property and possessions shall be exempt from attachment as provided by law".

Article II, Section 8: [Protection against attacks on honor, reputation, and private life]

"Every person has the right to the protection of law against abusive attacks on his honor, reputation and private or family life".

Rules of Civil Procedure of Puerto Rico:

DISQUALIFICATION, Tit. 32 L.P.R.A., Ap. II R 63.1  
[When disqualified]

"A judge on his own initiative or on motion of a party, shall not act as such in an action or proceeding in any of the following cases:

(a) When he is interested in its outcome or is prejudiced or partial to any of the parties or his attorneys".

(b) .....

(c) .....

NEW CANONS OF JUDICIAL ETHICS OF PUERTO  
approved on May 12, 1977, 4 L.P.R.A., App. 4, Sup. 1978,  
page 544:

Canon XII:

A judge should not take part in any judicial proceeding in which he is forbidden to act by law, including, but not limited to, cases like the following, where:

A) He is prejudiced or biased with regard to any of the parties or counsel participating in the controversy or because he has prejudged the case;

b) He is directly or indirectly interested in the outcome of the case;

c) .....

### STATEMENT OF THE CASE

Petitioner, Edelmiro Martínez Rivera, is a citizen of the United States of America born in Puerto Rico on May 3, 1901, and an attorney at law engaged since April 10, 1928 in the private practice of his profession.

During his practice of law, petitioner has earned his family livelihood and gained and enjoyed a good name and a respectable personal and professional reputation in the Puerto Rican community.

On September 29, 1977, the Supreme Court of Puerto Rico suspended the petitioner from the practice of law for a period of six (6) months on its holding that the petitioner Edelmiro Martínez Rivera infringed Canon 21 [Conflict of Interests] of the Code of Professional Ethics promulgated by the Court on December 24, 1970, by his acting as attorney for Engineer Victor E. Silva in a mortgage foreclosure proceeding filed against Victor E. Silva by Banco Crédito y Ahorro Ponceño, while Edelmiro Martínez Rivera was at the same time President and controlling stockholder of the Compañía de Fianzas de Puerto Rico (Puerto Rico Bonding Company), Silva's surety which as mortgagee, had an interest in the properties object of said action. The Court invoked "a conflict between Silva's interests and the interest of the Compañía de Fianzas de Puerto Rico" in the case, to declare that petitioner's "moral duty prevented him from representing Silva".

On November 29, 1977, after the Supreme Court of Puerto Rico flatly denied petitioner's motions to



reconsider and to vacate its order temporarily suspending the petitioner from the practice of law, the petitioner, plaintiff below, filed the present suit in the Superior Court of Puerto Rico, San Juan Part, against the individual justices of the Supreme Court of Puerto Rico as Officials of the Government of the Commonwealth of Puerto Rico, as parties defendants, under 42 U.S.C. 1983 [Civil action for deprivation of rights], claiming that the decree of suspension was entered by the defendants acting under color of law and without procedural due process in violation of the human rights and the privileges and immunities which the Constitution and laws of Puerto Rico and the Constitution and the laws of the United States of America guarantee to the plaintiff, and was for that reason, null and void.

On November 30, 1977, after less than 24 hours of the filing of petitioner's complaint, the Superior Court of Puerto Rico, San Juan Part, *motu proprio*, dismissed outright the action, without any form of notice to the petitioner, plaintiff below, calculated to give him an opportunity to be heard. Appendix A, *infra*, page 1a.

On December 29, 1977, petitioner, plaintiff below, filed notice of appeal to the Supreme Court of Puerto Rico in the form prescribed by law and by the Rules of the Supreme Court of Puerto Rico.

On January 12, 1978, acting on petitioner's appeal, the Supreme Court of Puerto Rico ordered the petitioner, appellant below, to show cause why the appeal should not be dismissed for want of a substantial constitutional question. Petitioner had his show cause paper filed with the Court on February 2, 1978.

Because by December 11, 1978 the Court had not acted further on the appeal, the petitioner, appellant below, moved the Court to set an oral hearing on its suggested point of why the appeal should not be dismissed for want of a substantial constitutional question.

On February 1, 1979, the Supreme Court of the Commonwealth of Puerto Rico denied the oral hearing asked for, and dismissed the appeal as well, stating in its Resolution that, we quote: "*Nothing in the law or in the Constitution required the said Superior Court of San Juan to hear the plaintiff before resolving that it lacked authority to act.*" (End of quote). Emphasis supplied. See Appendix "B", *infra*, page 2a.

On March 27, 1979, after the Supreme Court of Puerto Rico had flatly denied reconsideration, the petitioner, appellant below, moved the Court to reinstate the appeal invoking as ground for reinstatement that the individual Justices of the Court, themselves the parties appellees in the case, were personally interested in the out come of the suit and were thus legally, morally and ethically disqualified to take part as members of the Supreme Court of Puerto Rico, in the judicial consideration and decision of the appeal. The motion to reinstate, which the Court flatly denied on April 5, 1979, appears at Appendix "D", *infra*, page 4a.

## REASONS FOR GRANTING THE WRIT

1. PARTICIPATION BY THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF PUERTO RICO IN THE CONSIDERATION AND DECISION OF PETITIONER'S APPEAL, BEING THEMSELVES THE PARTIES APPELLEES, WAS SO MORALLY, LEGALLY AND ETHICALLY WRONG THAT THEIR STATED ACTION CALLS FOR THE EXERCISE OF THIS COURT'S POWER OF REVIEW AND TO VACATE THE DECISION.-

Under Rule 63.1 (1) of the Rules of Civil Procedure of Puerto Rico, Title 32 App. II, L.P.R.A., a judge shall inhibit himself, at his own initiative or upon petition of a

party, from acting in a suit or proceeding in any of the following cases:

- a) Where he is interested in its outcome or is prejudiced or partial to any of the parties or his attorney.
- b) .....
- c) .....

Additionally, the "NEW CANONS OF JUDICIAL ETHICS OF PUERTO RICO" adopted by the Supreme Court of the Commonwealth of Puerto Rico on May 12, 1977, effective from September 1, 1977, and presently in force, establish the mandatory standards that the judges in the judiciary of Puerto Rico should observe.

Of such "New Canons of Judicial Ethics of Puerto Rico", the one relevant here is Canon XII, from which we quote the following pertinent portion:

"A judge should not take part in any judicial proceeding in which he is forbidden to act by law, including, but not limited to, cases like the following, where:

"a) He is prejudiced or biased with regard to any of the parties or counsel participating in the controversy or because he has prejudged the case;

"b) *He is directly or indirectly* interested in the out come of the case; .....

"As soon as he learns of a cause for disqualification a judge should disqualify himself through a written resolution stating the cause thereof, and notify all the parties."

And see American Bar Association Code of Judicial Conduct, C. (7) (d) (i).

It goes here without saying, that the manner in which the individual respondents comported themselves in the present suit, acting on the appeal as appellees and performing at the same time their own selfish interests, as justices of the appellate Court, departs so far from the accepted and usual course of judicial proceedings, that calls for an exercise of this Court's power of supervision.

The Resolution of the Supreme Court of Puerto Rico the subject of this petition, is so tainted by judicial impropriety that it should be held indisputably void and ordered reversed. It shows the way the respondents look at the "New Canons of Judicial Ethics" when their personal interest in the outcome of a case is at stake. Irresponsible and immoral conduct of judges such as is present in this case, is what clouds the integrity of the Courts and erodes public confidence in the judiciary.

## 2. DISMISSAL BY THE SUPERIOR COURT OF PUERTO RICO, SAN JUAN PART, OF PETITIONER'S SUIT WITHOUT NOTICE OR HEARING, AND THE DISMISSAL BY THE SUPREME COURT OF PUERTO RICO OF PLAINTIFF'S APPEAL, DEPRIVED THE PETITIONER OF HIS CONSTITUTIONAL RIGHTS TO DUE PROCESS OF LAW AND TO EQUAL PROTECTION OF THE LAWS, AND BOTH DECISIONS ARE IN RADICAL CONFLICT WITH APLICABLE DECISIONS OF THE COURT.-

The fact that the Superior Court of San Juan, Puerto Rico, dismissed petitioner's action without notice or hearing is indisputed here. It is so acknowledged in the Resolution of the Supreme Court of Puerto Rico, Appendix "B", page 2a.

The procedural safeguards requirements of the Fourteenth Amendment of the Constitution of the United States, and in no less extent the procedural safeguards of the Bill of Rights of the Constitution of the



Commonwealth of Puerto Rico [Article 11, Section 7], forbid the Superior Court of San Juan to render a judgment of dismissal in the herein action without first giving the petitioner, plaintiff below, notice and hearing. On the appeal from the judgment, grounded on the lack of the prerequisite notice and hearing, the Supreme Court of Puerto Rico could not dismiss the appeal shunning the constitutional question raised, by fanning the idea, to serve the personal interests of appellees, that "Nothing in the law or in the Constitution required the said Superior Court of San Juan to hear the plaintiff before resolving that it lacked authority to act."

On such statement in the Resolution of the Supreme Court of Puerto Rico, we should point out that the fundamental requisite of due process has been defined by this Honorable Supreme Court of the United States as nothing less than an opportunity to be heard at a meaningful time and in a meaningful manner. *Goldberg vs. Kelly*, 397 U. S. 254.

A court's sentence pronounced against a party without hearing him or giving him an opportunity to be heard, is not a judicial determination of his rights, and is not entitled to respect in any other tribunal. *In Re Noell*, 1937, 93 Fed. (2) 5.

The Superior Court of Puerto Rico, San Juan Part, nor the Supreme Court of Puerto Rico, could not abridge or impair petitioner's constitutional right of access to the Courts by throwing his complaint out of Court without giving petitioner an opportunity to be heard.

"Right of access to the Courts is a freedom protected by the Petition of Grievances clause of Amendment I and Amendment 14 of the U. S. Constitution against abridgement by federal or state government." *Maryland Public, etc., vs Elkins*, D. C. Md. 430 Fed. Supp. 387.

Ordinarily, due process of law require opportunity for some hearing prior to deprivation of a significant

property interest. *Memphis Light, etc. vs. Craft*, 98 S. Ct. 1554 (1978).

To comply with due process, notice and hearing must always precede entry of final judgment depriving one of property. *Isabell vs. Sonoma County*, 1978, 577 P. (2) 188, 145 Cal. Rpts. 368.

In *Cary vs. Piphus*, 98 S. Ct. 1042 (1978), at page 1054, this Honorable Supreme Court of the United States considered the right to procedural due process to be "absolute", in the sense that it does not depend upon the merits of a claimant's substantive assertions.

Here, the interest of petitioner in his good name, reputation, honor or integrity are protected rights not only by the laws and Constitution of the United States, but as well by the laws and constitution of the Commonwealth of Puerto Rico; and where federally protected rights have been invaded or infringed, it has been ruled from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief. *Marbury vs. Madison*, (1803), 5 U. S. 137, 177, 2 L. Ed. 60.

The right of the people, and consequently that of plaintiff, as one of them, to have access to the courts of Puerto Rico to raise and elucidate, as a litigant, the causes which, is his consideration, justify judicial action, is an integral part of his freedom and therefore, a right of constitutional dimension, the importance or substantiality of which does not require or need to be proved by plaintiff with any aliunde evidence since, as a constitutional mandate, it operates "ex proprio vigore" and uninterruptedly during the lifetime of the citizen to which it applies. Cf. *Estado Libre Asociado de Puerto Rico vs. Hermandad de Empleados*, 104 D.P.R. 436 (1975) (Hon. José Trías Monge).

The constitutional guarantee of due process of law operates in favor of the individual to protect him in the enjoyment of his life and property, and at the same time it applies against judges and courts, barring them from the

exercise of their adjudicatory judicial functions without advising the interested parties of their opportunity to be heard. The due process of law requirement applies mandatorily to all judges of the courts of first instance, denying them the authority to abort this requirement as it was in fact done in this case by the trial judge, the Honorable Domingo Rafucchi, who in his dynamic and precipitate action decided to dismiss the complaint without even waiting for the ten-day term established by the Rules of Civil Procedure, within which defendants could file their allegations.

From *Mora vs. Mejías*, 206 F. 2d. 377 (1st. Cir. 1953) we quote:

"There cannot exist under the American flag any governmental authority which is not limited by the requirements of due process of law as guaranteed by the Constitution of the United States".

Under the 14th Amendment to the Constitution of the United States, plaintiff unquestionably has the right to have access to the courts of Puerto Rico and to be heard on the matter in controversy notwithstanding the ideas on the matter that the magistrate in charge may have formed. The access to the courts of Puerto Rico must be constitutionally adequate, effective and significant. *Bounds v. Smith*, (April 27, 1977) 97 S. Ct. 1491. "Meaningful access to the courts is the touchstone". id.

### CONCLUSION

FOR THESE REASONS, Petitioner respectfully prays this Honorable Court to issue a Writ of Certiorari to review the judgment of the Supreme Court of the Commonwealth of Puerto Rico.

EDELMIRO MARTINEZ RIVERA

Petitioner Pro-Se

112 Manuel Domenech Ave.,  
Hato Rey, Puerto Rico, 00918  
Telephone (809) 764-9303

### CERTIFICATE

I certify that I have served the foregoing Petition for Certiorari on Respondents, Messrs. Héctor Colón Cruz, José Trías Monge, Carlos V. Dávila, Hiram Torres Rigual, Angel M. Martín, Jorge Díaz Cruz, Carlos J. Irizarry Yunque and Antonio S. Negrón García, by U. S. Mail, postage prepaid, this 15 day of April, 1979.

EDELMIRO MARTINEZ RIVERA

## APPENDIX A

IN THE SUPERIOR COURT OF PUERTO RICO  
SAN JUAN PARTEDELMIRO MARTINEZ RIVERA,  
Plaintiff

v.

Civil No. 77-8122

HECTOR COLON CRUZ,  
JOSE TRIAS MONGE,  
CARLOS V. DAVILA,  
HIRAM TORRES RIGUAL,  
ANGEL M. MARTIN,  
JORGE DIAZ CRUZ,  
CARLOS J. IRIZARRY YUNQUE,  
and ANTONIO S. NEGRON GARCIA,  
DefendantsAction for nullity of  
judgment and  
injunctive relief.

## JUDGMENT

After examining the allegations of the complaint, we conclude that it is a direct attack on a final judicial decision of the Hon. Supreme Court of Puerto Rico in the exercise of its inherent authority within our judicial system. (*In Re: Edelmiro Martínez Rivera*, No. 0-74-197, Disciplinary Action, Per Curiam Opinion issued on September 29, 1977, Bar Asso. Ad. Sheet 1977-79; Rule 13 of the Rules of the Supreme Court, 4 L.P.R.A. app. I, R. 13). This being the case, the complaint is, by definition, excluded from the category of cases or controversies justiciable by the court of first instance in Puerto Rico. Judiciary Act of 1952, 4 L.P.R.A. § 1 *et seq.* As a consequence thereof, the court, *motu proprio*, dismisses outright the complaint in this case for lack of jurisdiction over a justiciable case or controversy.



To be registered and notified.

Given in San Juan, Puerto Rico, this 30th day of November 1977.

/s/ DOMINGO RAFFUCCI  
SUPERIOR COURT JUDGE

I CERTIFY:

BELEN BONIT  
CLERK

By: Rosa Méndez  
Deputy Clerk

# APPENDIX B

## IN THE SUPREME COURT OF PUERTO RICO

EDELMIRO MARTINEZ RIVERA  
Plaintiff Appellant

No. 0-78-4

vs.

HECTOR COLON CRUZ, etc.  
Defendants-Appellees

Action for nullity of  
judgment and  
injunctive relief.

## RESOLUTION

San Juan, Puerto Rico, February 1, 1979

The motion of December 11, 1978, requesting a hearing for oral argument is hereby denied.

At the same time, the appeal taken against the judgment rendered on November 30, 1977 by the Hon. Domingo Raffucci, Superior Court Judge, is dismissed because it does not raise a substantial constitutional question.

The facts of this case are the following: On September 20, 1976 this Court ordered appellant's suspension from the practice of law for a period of six months. On November 28, an action was filed asking the Superior Court to declare the aforementioned judgment of this Court void. On November 30, 1977, the Hon. Domingo Raffucci dismissed the complaint for considering that it did not present a justiciable controversy. That judgment was appealed before us, and it was alleged that the Superior Court's dismissal of the complaint violates his constitutional guarantee to due process of law.

There is absolutely no merit to said statement. The Supreme Court of Puerto Rico is the court of last resort in the country. Section 3, art. V of the Constitution of the Commonwealth of Puerto Rico; Section 1 of the Judiciary Act, Act No. 11 of July 24, 1952, 4 L.P.R.A. § 1. Its decisions may only be reviewed by state supreme courts under certain circumstances. 28 U.S.C. § 1258.

The Superior Court's lack of jurisdiction is evident from the very terms of the complaint in this case. Nothing in the law or in the Constitution required said Court to hear plaintiff before deciding that it lacked authority to act. It is for the foregoing reasons that the appeal in this case is dismissed.

It was thus agreed by the by the Court, as certified by the Clerk.

Ernesto L. Chiesa  
Clerk

## APPENDIX C

## IN THE SUPREME COURT OF PUERTO RICO

EDELMIRO MARTINEZ  
RIVERA

Plaintiff-Appellant

v.

HECTOR COLON CRUZ,  
etc.

Defendants-Appellees

Appeal from the  
Superior Court,  
San Juan Part,

No. 0-78-4  
Action for nullity of  
judgment and injunctive  
relief.

## RESOLUTION

San Juan, Puerto Rico, March 1, 1979

The Motion for Reconsideration is denied. It was so  
agreed by the Court and certified by the Clerk.

Mr. Justice Negrón García took no part in the decision.

(Sgd.) Ernesto L. Chiesa  
Clerk

## APPENDIX D

## IN THE SUPREME COURT OF PUERTO RICO

EDELMIRO MARTINEZ  
RIVERA

Plaintiff-Appellant

v.

HECTOR COLON CRUZ, etc.  
Defendants-Appellees

Number 0-78-4  
Action for nullity of  
judgment and injunctive  
relief.

MOTION REQUESTING REINSTATEMENT  
OF APPEAL

## TO THE HONORABLE COURT:

Plaintiff-appellant herein respectfully moves that the  
Resolution dated February 1, 1979 be set aside and that  
the reinstatement of the appeal in this case be ordered for  
further proceedings in accordance with the Rules of this  
Supreme Court.

Since the present Justices of the Supreme Court of  
Puerto Rico are de defendants-appellees in this case, and  
since it would be in their interest as such to affirm the  
judgment issued in their favor by the lower court, the  
Resolution dismissing the appeal authored by these same  
defendants as judges of last resort is a gross and rude  
violation of the traditional legal principle that one may  
not act in a litigation in the double capacity as judge and  
party and constitutes a vice which irretrievably  
contaminates the essence and blood of the Resolution of  
February 1, 1979, and makes it a judicial act which is null  
and morally and legally untenable.

As the Supreme Court of Puerto Rico states in *IN Re:  
Rodríguez Torres*, 104 D.P.R. 758, at page 766: "justice  
must be immaculate not only in its inner reality but in its  
external appearance."

This principle was the basis for the Supreme Court of  
Puerto Rico's "Code of Professional Ethics for Lawyers"  
and for its "New Canons of Judicial Ethics of Puerto  
Rico."

Particularly Canon XII of the "New Canons of Judicial  
Ethics," in its subsection (a) bars the judge from having  
jurisdiction in any judicial proceeding where he is  
"prejudiced or biased" with regard to any of the parties or  
counsel participating in the controversy or because he has  
prejudiced the case; and in its subsection (b) bars the

judge from having jurisdiction in any judicial proceedings in which he is *"directly or indirectly interested in the outcome of the case."*

WHEREFORE, plaintiff prays that the Resolution of February 1, 1979, be set aside and that the appeal in this case be reinstated for further proceedings prescribed by the Rules.

San Juan, Puerto Rico, this 27th day of March 1979.

I CERTIFY: Having mailed on this date a copy of this writ to each and every one of the defendants in this case.

RESPECTFULLY SUBMITTED,

(Sgd.)

EDELMIRO MARTINEZ RIVERA  
Plaintiff-Appellant  
112 Avenida Manuel V. Domenech  
Hato Rey, Puerto Rico 00918  
Tels. 764-9306 & 763-8185

#### APPENDIX E

#### IN THE SUPREME COURT OF PUERTO RICO

EDELMIRO MARTINEZ RIVERA  
Plaintiff-Appellant

No. 0-78-4

v.  
HECTOR COLON CRUZ, etc.  
Defendants-Appelles

Action for nullity of  
judgment and  
injunctive relief.

#### RESOLUTION

San Juan, Puerto Rico, April 5, 1979

The motion for reinstatement of appeal filed on March 27, 1979 has been considered as a second motion for reconsideration, and the same is denied. Appellant shall abide by the mandate of March 1, 1979.

It was thus agreed by the Court and certified by the Clerk.

Mr. Chief Justice Trías Monge did not take part in the decision.

Ernesto L. Chiesa  
Clerk